

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

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Bill 10

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Review Committee\Bills\Bill 10_16-0268.wpd*

LLS NO. 16-0268.01 Bob Lackner x4350

INTERIM COMMITTEE BILL

Wildfire Matters Review Committee

BILL TOPIC: "Auxiliary Emergency Communications"

A BILL FOR AN ACT

101 **CONCERNING AUXILIARY EMERGENCY COMMUNICATIONS IN THE**
102 **STATE, AND, IN CONNECTION THEREWITH, ESTABLISHING THE**
103 **AUXILIARY EMERGENCY COMMUNICATIONS UNIT IN THE OFFICE**
104 **OF EMERGENCY MANAGEMENT IN THE DIVISION OF PUBLIC**
105 **SAFETY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Wildfire Matters Review Committee. Section 1 of the bill contains a nonstatutory legislative declaration.

Section 2 of the bill creates the auxiliary emergency communications unit (unit) within the office of emergency management (office) within the division of homeland security and emergency management in the department of public safety. The unit is in the charge of the director of the office. This section specifies the unit's powers and duties and additionally specifies the powers and duties of the director of the office in connection with the powers and duties of the unit.

Sections 3 through 7 of the bill make modifications to existing statutory provisions governing compensation benefits to volunteer civil defense workers. Specifically:

- Section 3 of the bill expands the definition of "emergency volunteer service" to include activities undertaken during a training exercise, drill, or class conducted in preparation for a disaster if the exercise, drill, or class is organized or under the direction of the county sheriff, local government, local emergency planning committee, or state agency;
- Section 4 of the bill specifies that any credentialed member of the unit is a qualified volunteer and is eligible to receive accompanying protections and benefits under existing statutory provisions;
- Section 5 of the bill includes the amateur radio emergency service as a specified volunteer organization authorized to provide emergency services to state and local agencies. This section of the bill also specifies that the amateur radio emergency service is a qualified volunteer.
- Section 6 of the bill expands the activities for which a qualified volunteer may be called to service to include a training exercise, drill, or class conducted in preparation for a disaster if the exercise, drill, or class is organized or under the direction of the county sheriff, local government, local emergency planning committee, or state agency. The statutory provisions protecting qualified volunteers do not apply to a training exercise, drill, or class without the express prior consent and approval of the volunteer's employer.
- Section 7 of the bill expands the list of activities used to verify that a qualified volunteer provided volunteer services to include an organized training exercise, drill, or class.

Section 8 of the bill increases the size of the public safety communications subcommittee to the homeland security and all-hazards senior advisory committee from 23 to 24 members and makes the section emergency coordinator for the amateur radio emergency service of the

Colorado section of the amateur radio relay league or his or her designee a standing member of the subcommittee.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) Amateur radio operators have served their communities, the
5 state, and the nation for over seventy-five years providing emergency and
6 disaster communications;

7 (b) Following World War II, the federal government recognized
8 the need for trained radio operators to assist with civil defense in the
9 event of war and created a branch within the amateur radio service, the
10 Radio Amateur Civil Emergency Service (RACES);

11 (c) The American Radio Relay League, the national association
12 for radio amateurs, created the Amateur Radio Emergency Service
13 (ARES) in 1935 and, since that time, ARES has been the only national
14 organization recruiting and training amateur radio operators to serve in
15 times of emergency;

16 (d) ARES is well established and well organized within Colorado;

17 (e) In many communities ARES and RACES units were combined
18 with ARES members assuming the role of RACES operators when local
19 emergencies were declared. In other communities, separate ARES and
20 RACES organizations were established, thereby diluting the available
21 resources and creating confusion or conflict as to roles and
22 responsibilities.

23 (f) Communication failures have been a defining element of
24 recent disasters, both natural and manmade;

25 (g) The September 11, 2001, attacks on the World Trade Center

1 in New York City, Hurricane Katrina, the 2003 North American blackout,
2 and Hurricane Sandy in 2012 were all disasters where amateur radio
3 provided key communication links when other communication facilities
4 failed;

5 (h) The United States congress recognized the importance of
6 amateur radio communications as a part of the national disaster response
7 framework in 2012 when it directed the Federal Communications
8 Commission (FCC) to conduct a study on the uses and capabilities of
9 amateur radio service communications in emergencies and disaster relief;

10 (i) The FCC report, GN docket no. 12-91 dated August 16, 2012,
11 concluded that "amateur radio can be of great value in emergency
12 response situations. Amateur radio carries with it a wide range of
13 advantages that allow it to supplement other emergency communications
14 activities during disasters. This has been demonstrated time and again in
15 a wide variety of emergency and disaster situations."

16 (j) The FCC report acknowledged that the "value [of amateur
17 radio] could potentially be increased, however, through cooperation
18 among DHS [the United States department of homeland security], public
19 safety, emergency management, and amateur radio communications
20 associations and groups to develop future training protocols." The FCC
21 recommended to congress that DHS work with state, local, and tribal
22 authorities to develop disaster area access policies and qualifications for
23 trained amateur radio operators who provide emergency communications
24 support.

25 (k) In Colorado, amateur radio operators and, in particular, ARES
26 members have a rich history of providing communication expertise during
27 natural or man-made disasters such as the blizzards of December 2006;

1 the Hayman, North Fork, Four Mile Canyon, High Park, Waldo Canyon,
2 and Black Forest wildfires; and the September 2013 floods;

3 (l) Today, amateur radio operators assist the division of homeland
4 security and emergency management of the department of public safety;
5 train side-by-side with their professional counterparts in federal, state,
6 and local government entities; and serve as members of local and regional
7 incident management teams;

8 (m) In recent years amateur radio operators have been called upon
9 by state and local governments to act as communication experts across a
10 broader range of duties and responsibilities that extend beyond traditional
11 amateur radio communication;

12 (n) While maintaining their traditional roles as amateur radio
13 operators, many of these volunteers assist with the establishment and
14 maintenance of communication facilities, assist with programming public
15 safety radios during emergencies, and act as radio operators on public
16 safety channels;

17 (o) During the past year, amateur radio operators have performed
18 tens of thousands of hours of devoted service to the people of Colorado;

19 (p) While ARES has worked closely and cooperatively with the
20 office of emergency management in the division of homeland security and
21 emergency management, it has done so in a largely informal manner,
22 lacking a formal memorandum of understanding between it and the
23 office;

24 (q) Emergency preparedness and disaster response across the state
25 would be improved by a comprehensive integrated and unified
26 communications response framework;

27 (r) The office of emergency communications of the United States

1 department of homeland security (OEC) has provided direct technical
2 assistance to state and local emergency responders and government
3 officials through the development and delivery of training, tools, and
4 onsite assistance to advance public safety interoperable communications
5 capabilities; and

6 (s) The concept of auxiliary emergency communications
7 (auxcomm) is being deployed nationally under the sponsorship of the
8 OEC, and the framework has been embraced by the office of emergency
9 management.

10 (2) Having a uniformly trained and credentialed unit of
11 communication volunteers available for disaster response will materially
12 assist emergency preparedness and disaster response efforts across the
13 state. Accordingly, the general assembly hereby finds, declares, and
14 determines that the matters addressed in this act are a matter of statewide
15 concern.

16 (3) By enacting [House/Senate] Bill 16-____, the general
17 assembly intends to establish the auxiliary emergency communications
18 unit within the office of emergency management in the division of
19 homeland security and emergency management of the department of
20 public safety as an all-volunteer, unpaid auxiliary unit for the purpose of
21 lending technical and communication assistance to emergency
22 management, firefighting, emergency medical service, search-and-rescue,
23 and law enforcement agencies across the state. The general assembly
24 further intends that the act be liberally construed to promote these
25 objectives.

26 **SECTION 2.** In Colorado Revised Statutes, **add** 24-33.5-705.5
27 as follows:

1 **24-33.5-705.5. Auxiliary emergency communications unit -**
2 **powers and duties of unit and office of emergency management**
3 **regarding auxiliary communications - definitions.** (1) AS USED IN THIS
4 SECTION:

5 (a) "AUXILIARY EMERGENCY COMMUNICATOR" MEANS AN
6 AMATEUR RADIO OPERATOR LICENSED BY THE UNITED STATES FEDERAL
7 COMMUNICATIONS COMMISSION PURSUANT TO 47 CFR 97 WHO MEETS THE
8 TRAINING REQUIREMENTS AND IS CREDENTIALLED BY THE OFFICE. AN
9 AUXILIARY EMERGENCY COMMUNICATOR MEETING THE REQUIREMENTS OF
10 THIS PARAGRAPH (a) SERVES AS AN AUTHORIZED VOLUNTEER OF THE
11 OFFICE FOR PURPOSES OF ARTICLE 10 OF THIS TITLE.

12 (b) "DIVISION" MEANS THE DIVISION OF HOMELAND SECURITY AND
13 EMERGENCY MANAGEMENT CREATED IN SECTION 24-33.5-1603.

14 (c) "OFFICE" MEANS THE OFFICE OF EMERGENCY MANAGEMENT
15 CREATED IN SECTION 24-33.5-705 (1) (a).

16 (d) "UNIT" MEANS THE AUXILIARY EMERGENCY COMMUNICATIONS
17 UNIT OF THE OFFICE.

18 (2) THE AUXILIARY EMERGENCY COMMUNICATIONS UNIT IS
19 HEREBY ESTABLISHED WITHIN THE OFFICE. THE UNIT IS IN THE CHARGE OF
20 THE DIRECTOR OF THE OFFICE.

21 (3) THE UNIT HAS THE FOLLOWING POWERS AND DUTIES:

22 (a) ESTABLISH PROGRAMS FOR THE TRAINING AND CREDENTIALING
23 OF EMERGENCY OR DISASTER COMMUNICATORS ACROSS THE STATE, WHICH
24 TRAINING AND CREDENTIALING IS DECLARED TO BE A MATTER OF
25 STATEWIDE CONCERN. IN CONNECTION WITH SUCH TRAINING AND
26 CREDENTIALING, THE USE OF THE TERM "AUXILIARY EMERGENCY
27 COMMUNICATIONS" WITHIN THE STATE IS LIMITED TO INDIVIDUALS,

1 ENTITIES, ASSOCIATIONS, AND UNITS OF LOCAL GOVERNMENT THAT HAVE
2 BEEN CERTIFIED BY THE DIRECTOR OF THE OFFICE AS MEETING THE
3 TRAINING AND CREDENTIALING REQUIREMENTS ESTABLISHED BY THE
4 DEPARTMENT FOR AUXILIARY EMERGENCY COMMUNICATORS.

5 (b) ASSUME ALL OF THE DUTIES AND POSSESS ALL OF THE
6 AUTHORITY AND RESPONSIBILITIES OF THE RADIO AMATEUR CIVIL
7 EMERGENCY SERVICE, REFERRED TO IN THIS SECTION AS "RACES", 47
8 CFR 97.407, WITHIN THE STATE. ANY REFERENCE TO RACES IN ANY
9 FEDERAL LAW OR REGULATION, AND ANY FEDERAL, STATE, OR LOCAL
10 GOVERNMENT EMERGENCY OR DISASTER PLANS IS TO BE INTERPRETED AS
11 REFERRING TO THE UNIT, AND THE UNIT IS THE SUCCESSOR ENTITY TO ANY
12 STATE RACES ORGANIZATION REFERENCED IN ANY SUCH LAW,
13 REGULATION, OR PLAN. LANGUAGE PROHIBITING ANY INDIVIDUAL, ENTITY,
14 ASSOCIATION OR GOVERNMENT AGENCY FROM REPRESENTING THAT IT IS
15 A STATE RACES ORGANIZATION.

16 (c) ENSURE THAT AUXILIARY EMERGENCY COMMUNICATORS ARE
17 AUTHORIZED VOLUNTEERS ENTITLED TO THE PROTECTIONS AND BENEFITS
18 OF PART 8 OF THIS ARTICLE WHEN ASSISTING WITH THE INSTALLATION,
19 MAINTENANCE, OR DEMOLITION OF COMMUNICATION FACILITIES OF ANY
20 COUNTY SHERIFF, LOCAL GOVERNMENT, LOCAL EMERGENCY PLANNING
21 COMMITTEE, OR STATE AGENCY, WHETHER OR NOT SUCH ACTIVITIES
22 OCCUR DURING A DISASTER; EXCEPT THAT THE PROVISIONS OF SECTIONS
23 24-33.5-825 AND 24-33.5-826 DO NOT APPLY TO A TRAINING EXERCISE,
24 DRILL, OR CLASS WITHOUT THE EXPRESS PRIOR CONSENT AND APPROVAL
25 OF THE VOLUNTEER'S EMPLOYER.

26 (4) IN CONNECTION WITH THE POWERS AND DUTIES OF THE UNIT AS
27 SPECIFIED IN THIS SECTION, THE DIRECTOR OF THE OFFICE MAY:

1 (a) DEVELOP AND ISSUE PHOTO IDENTIFICATION THAT IS
2 RECOGNIZED THROUGHOUT THE STATE FOR THE PURPOSE OF GRANTING
3 ACCESS TO GOVERNMENT FACILITIES, INCIDENT COMMAND POSTS, AND
4 DISASTER SCENES;

5 (b) CONDUCT CRIMINAL BACKGROUND INVESTIGATIONS ON
6 CANDIDATES FOR CREDENTIALING AS AUXILIARY EMERGENCY
7 COMMUNICATORS IN ACCORDANCE WITH THE SECURITY NEEDS OF THE
8 DEPARTMENT. THE UNIT MAY DENY CREDENTIALING TO ANY CANDIDATE
9 BASED UPON THE RESULTS OF THAT BACKGROUND CHECK.

10 (c) REIMBURSE AUXILIARY EMERGENCY COMMUNICATORS FOR
11 NECESSARY TRAVEL AND OTHER REASONABLE EXPENSES INCURRED IN THE
12 PERFORMANCE OF THEIR DUTIES, INCLUDING PROJECTS, TRAINING, DRILLS,
13 EXERCISES, AND DISASTER RESPONSE ACTIVITIES;

14 (d) EXPEND STATE MONEYS, INCLUDING BUT NOT LIMITED TO
15 GRANT MONEYS OR MONEYS OTHERWISE BUDGETED TO THE OFFICE, TO
16 ENHANCE THE COMMUNICATION INFRASTRUCTURE AS NECESSARY TO
17 SUPPLEMENT OR REINFORCE THE EXISTING AMATEUR RADIO SYSTEMS AND
18 NETWORKS WITHIN THE STATE FOR THE PURPOSES OF MAXIMIZING
19 DISASTER PREPAREDNESS AND RESPONSE.

20 **SECTION 3.** In Colorado Revised Statutes, 24-33.5-802, **amend**
21 (5) as follows:

22 **24-33.5-802. Definitions.** As used in this part 8, unless the
23 context otherwise requires:

24 (5) "Emergency volunteer service" means all activities authorized
25 and carried out by a volunteer who is a member of a qualified volunteer
26 organization as directed by a county sheriff, local government, local
27 emergency planning committee, or state agency in the event of disaster OR

1 DURING A TRAINING EXERCISE, DRILL, OR CLASS CONDUCTED IN
2 PREPARATION FOR A DISASTER, WHICH EXERCISE, DRILL, OR CLASS IS
3 ORGANIZED OR UNDER THE DIRECTION OF SUCH COUNTY SHERIFF, LOCAL
4 GOVERNMENT, LOCAL EMERGENCY PLANNING COMMITTEE, OR STATE
5 AGENCY.

6 **SECTION 4.** In Colorado Revised Statutes, **add** 24-33.5-806.5
7 as follows:

8 **24-33.5-806.5. Auxiliary emergency communications unit of**
9 **the office of emergency management - qualified volunteers -**
10 **protections and benefits.** NOTWITHSTANDING ANY OTHER PROVISION OF
11 THIS PART 8, ANY CREDENTIALLED MEMBER OF THE AUXILIARY EMERGENCY
12 COMMUNICATIONS UNIT OF THE OFFICE OF EMERGENCY MANAGEMENT
13 CREATED BY SECTION 24-33.5-705 (1) IS A QUALIFIED VOLUNTEER FOR
14 PURPOSES OF THIS PART 8 AND ARTICLE 10 OF THIS TITLE AND IS ELIGIBLE
15 TO RECEIVE THE PROTECTIONS AND BENEFITS SPECIFIED IN THIS PART 8
16 AND IN ARTICLE 10 OF THIS TITLE.

17 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-822, **amend**
18 (1) and (5) as follows:

19 **24-33.5-822. County sheriff - local government - local**
20 **emergency planning committee - memorandum of understanding**
21 **with volunteer organizations.** (1) Any county sheriff, the director of
22 any local government, any local emergency planning committee, or any
23 state agency may develop and enter into a memorandum of understanding
24 with one or more volunteer organizations, including but not limited to the
25 Colorado mounted rangers AND THE AMATEUR RADIO EMERGENCY
26 SERVICE, to assist the county sheriff, local government, local emergency
27 planning committee, or state agency in providing services as required.

1 (5) A member of the Colorado mounted rangers, THE AMATEUR
2 RADIO EMERGENCY SERVICE, and any other volunteer organization lending
3 assistance to a county sheriff, local government, local emergency
4 planning committee, or state agency pursuant to this section is an
5 authorized volunteer for the purposes of article 10 of this title.

6 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-824, **amend**
7 (1) (c) and (2) (a) as follows:

8 **24-33.5-824. Volunteers - provision of emergency services -**
9 **protections - benefits.** (1) A volunteer shall be allowed to receive the
10 benefits and protections specified in this part 8 and pursuant to article 10
11 of this title if the volunteer is determined to be a qualified volunteer
12 pursuant to this section. A volunteer shall be deemed a qualified volunteer
13 if:

14 (c) The volunteer is called to service through the volunteer
15 organization under the authority of the county sheriff, local government,
16 local emergency planning committee, or state agency to volunteer in a
17 disaster OR DURING A TRAINING EXERCISE, DRILL, OR CLASS CONDUCTED
18 IN PREPARATION FOR A DISASTER, WHICH EXERCISE, DRILL, OR CLASS IS
19 ORGANIZED OR UNDER THE DIRECTION OF SUCH COUNTY SHERIFF, LOCAL
20 GOVERNMENT, LOCAL EMERGENCY PLANNING COMMITTEE, OR STATE
21 AGENCY; EXCEPT THAT THE PROVISIONS OF SECTIONS 24-33.5-825 AND
22 24-33.5-826 DO NOT APPLY TO A TRAINING EXERCISE, DRILL, OR CLASS
23 WITHOUT THE EXPRESS PRIOR CONSENT AND APPROVAL OF THE
24 VOLUNTEER'S EMPLOYER; and

25 (2) The executive director of the department or the executive
26 director's designee shall create a system whereby a volunteer may obtain
27 proof to provide to his or her employer that specifies:

1 (a) The volunteer was called to service by a volunteer organization
2 for the purpose of assisting in a disaster OR DURING A TRAINING EXERCISE,
3 DRILL, OR CLASS CONDUCTED IN PREPARATION FOR A DISASTER, WHICH
4 EXERCISE, DRILL, OR CLASS IS ORGANIZED OR UNDER THE DIRECTION OF
5 SUCH COUNTY SHERIFF, LOCAL GOVERNMENT, LOCAL EMERGENCY
6 PLANNING COMMITTEE, OR STATE AGENCY; EXCEPT THAT THE PROVISIONS
7 OF SECTIONS 24-33.5-825 AND 24-33.5-826 DO NOT APPLY TO A TRAINING
8 EXERCISE, DRILL, OR CLASS WITHOUT THE EXPRESS PRIOR CONSENT AND
9 APPROVAL OF THE VOLUNTEER'S EMPLOYER;

10 **SECTION 7.** In Colorado Revised Statutes, 24-33.5-827, **amend**
11 (1) (b) as follows:

12 **24-33.5-827. Procedures.** (1) The office of emergency
13 management shall create procedures for the administration of this part 8.
14 The procedures shall include:

15 (b) A process to verify that a qualified volunteer provided
16 volunteer services during a disaster OR AN ORGANIZED TRAINING
17 EXERCISE, DRILL, OR CLASS, and a method to allow the volunteer to
18 provide proof of such service to his or her employer pursuant to section
19 24-33.5-824 (2).

20 **SECTION 8.** In Colorado Revised Statutes, 24-33.5-1614,
21 **amend** (3.3) (e) introductory portion; and **add** (3.3) (e) (IV) as follows:

22 **24-33.5-1614. Homeland security and all-hazards senior**
23 **advisory committee - composition - duties - emergency planning**
24 **subcommittee - public safety communications subcommittee -**
25 **creation - definitions - repeal.** (3.3) (e) The subcommittee consists of
26 at least the following ~~twenty-three~~ TWENTY-FOUR members:

27 (IV) THE SECTION EMERGENCY COORDINATOR FOR THE AMATEUR

1 RADIO EMERGENCY SERVICE OF THE COLORADO SECTION OF THE AMATEUR
2 RADIO RELAY LEAGUE OR HIS OR HER DESIGNEE.

3 **SECTION 9. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2016 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.